IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5632 OF 2005

Shri Bibhishan Bajrang Magar .. Petitioner

Vs.

Shri Mayappa Bapu Sathe and ors. .. Respondents

Mr. R.V. More for petitioner.
Mr. Vikas Kolekar for respondent nos.1,3 and 4.
Ms. Shama N. Ghotekar h/f Mr. N.G. Ghotekar for respondent no.6.

CORAM: B.H. MARLAPALLE, J.

Date : June 22, 2006.

P.C.:

1. Heard Mr. More the learned counsel for the petitioner who has impleaded as opponent no.2 in Motor Accident Claim No. 233 of 1999 presently pending before the Motor Accident Claims Tribunal at Sangli. In the said claim he appeared and filed his Written Statement on 30/9/2000 and on or about 20/3/2003 he moved an application for amendment of the Written Statement so as to point out that the subject vehicle bearing registration no.MH-16-E-1614 was already sold to Mr. Prasad Paricharak on or about 30/9/1998. He also wanted to rely upon the orders passed by the JMFC

at Sangola and to pray for the proceeding to be treated under Section 163 of the Motor Vehicles Act 1988. Consequently, he also sought to change the jurisdiction of the court to entertain and decide the application for claim under Section 166 as well as no fault claim under Section 140 of the Motor Vehicles Act, 1988. The Tribunal by the impugned order was pleased to reject the said application filed at Exh.44 on 5/4/2005.

2. The learned Member of the Tribunal has clearly observed that the ownership of the vehicle as well as whether it was a hit and ran accident by an unknown vehicle are the issues which can be decided after the parties lead oral and documentary evidence and there was no necessity to amend the Written Statement, more so when the petitioner himself has taken a plea in his Written Statement that the vehicle was sold to Mr. Prasad Paricharak. Therefore, no fault could be found with the order impugned.

3. The petition is, therefore, summarily rejected and it is clarified that it is open for the petitioner

to lead evidence in support of his plea that he was not owner of the vehicle on the date of the accident and the vehicle in the accident was unknown and it was hit and ran accident. He is also allowed to file copies of the judgments passed by the JMFC, Sangola before the Tribunal. Trial of the claim is expedited.

(B.H. Marlapalle,J.)